

The bill also provides a statement of public necessity that includes the following state interests:

- Protecting and promoting the well-being of adopted persons and their birth and adoptive parents,
- Ensuring that a child is available for adoption,
- Protecting the confidentiality and precluding the disclosure of personal intimate detail of the registrant and the biological mother and child,
- Preventing unnecessary and unwarranted intrusion into the right of privacy as to personal information,
- Encouraging the collection of information integral to a child's best interest, and
- Providing that the need for due process and protection of privacy outweigh the benefit of public disclosure.

The information in the putative father registry database is to be maintained separate from all other databases and is inaccessible, except as provided, to any other state or federal agency or entity.

The confidentiality and exemption provisions stand repealed October 2, 2008, unless reviewed and enacted by the Legislature. The bill provides an effective date that corresponds with the passage of the substantive bill relating to adoption that enacts the Putative Father Registry.

IV. **Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Public Records¹ Law

Section 24 of article I of the *Florida Constitution* provides the right of access to public records by stating that every person has the right to inspect or copy any public records made or received in connection with official state business. This right of access to public records applies to the legislative, executive, and judicial branches of government; counties, municipalities, and districts; and each constitutional officer, board, and commission, or entity created pursuant to law or by the Constitution. Exemptions may be provided by general law. There must be an expressed statement of public necessity which justifies the exemption. The exemption can be no broader than necessary to accomplish the purpose of the law.

The corresponding general law is found in chapter 119, F.S. Chapter 119, F.S. provides additional requirements for the establishment of a public records exemption. There must be an identifiable public purpose and it must be no broader than necessary to meet the public purpose it serves. The public purpose must be sufficiently compelling to override

¹Public records are defined as all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency. *See* 119.011(1), F.S.

the Florida's strong public policy of open government. It must be expressed that the public purpose can not be accomplished without the exemption and that one of three other criterion is satisfied relating to the sensitivity and confidentiality of the information. The custodian of a public record must permit the record to be inspected and examined by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record or the custodian's designee. *See* § 119.07(1), F.S.

Open Government Sunset Review Act

The Open Government Sunset Review Act of 1995 provides for the automatic 5-year review and repeal of an exemption provided under the Public Records Act. *See* §119.15, F.S. If the Legislature intends to re-enact the new exemption or the substantial amendment of an existing exemption, the Legislature must act to re-enact it in the fifth (and final year) of the exemption period, otherwise, it stands repealed on October 2 of that year.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The bill exempts "all" information contained in the paternity registry from public disclosure. Such public records exemptions from s. 24 of Article I of the Florida Constitution must be drafted no broader than necessary to accomplish the public purpose. At a minimum, personal identifying information in the registry record is kept from public disclosure.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may encourage participation by putative fathers wanting to preserve their right to notice and consent in termination of parental rights and adoption proceedings. This bill may also protect the disclosure of personal identifying and intimate information about the biological mother and the child.

C. Government Sector Impact:

The Department of Health, Office of Vital Statistics will incur whatever expense is attendant with rule-making obligations pursuant to the establishment of the Putative Father Registry and the maintenance of confidentiality and exemption from public disclosure.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
